

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TIMOTHY MATTHEWS,

Plaintiff,

v.

MOUNTAIRE FARMS
OF DELAWARE, *et al.*

Defendant.

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Civil Action No. 06-330 GMS

**DEFENDANTS' UNOPPOSED MOTION FOR ENLARGMENT OF TIME
TO FILE REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Defendants, Mountaire Farms of Delaware, Inc., *et al.* ("Mountaire"), pursuant to Fed. R. Civ. P. 6(b) and Local Rule 7.1.2(b), hereby request an enlargement of time to file a Reply in support of their Motion for Summary Judgment until December 10, 2007, and in support thereof, state as follows:

1. In accordance with the Court's Scheduling Order, Mountaire filed a timely Motion for Summary Judgment and Opening Brief on July 9, 2007. (*See* D.I. 12 setting forth the Scheduling Order; D.I. 18-20).

2. Pursuant to the Court's Scheduling Order, Plaintiff's Opposition to Mountaire's Motion for Summary Judgment was due ten (10) days later on July 23, 2007 and Mountaire would have had ten (10) days to file a Reply brief, or until August 6, 2007. (D.I. 12).

3. Having filed no Opposition in the timeframe allowed by the Court's Scheduling Order, on August 17, 2007, Plaintiff, a *pro se* litigant, filed a Motion for Enlargement of Time to file his Opposition in order to obtain the assistance of counsel. (D.I. 23).

4. The Court granted Plaintiff's Motion for an Enlargement of Time by Order dated October 30, 2007. (D.I. 23). The October 30 Order granted Plaintiff an additional ten (10) days from the date of the Order to file his response to Mountaire's Motion for Summary Judgment. (D.I. 23).

5. In accordance with the Court's October 30 Order, Plaintiff filed a timely Opposition on November 14, 2007. (D.I. 25). However, Plaintiff's Opposition also contained Exhibits filed under seal, which were not served on Mountaire until November 19, 2007. (*See* D.I. 26).

6. Furthermore, unlike the Court's original Scheduling Order, the October 30 Order did not set forth the time in which Mountaire has to file a Reply Brief. (*Compare* D.I. 12 *with* D.I. 23). If the timeframe was calculated from November 14, 2007 and pursuant to Local Rule 7.1.2(b) and Fed. R. Civ. Pro. 6(e) (allowing five (5) days to file a Reply plus three (3) days for service), Mountaire seemingly would only have until November 28, 2007 to file its Reply Brief. This timeframe, however, is less than was granted by the Court's original Scheduling Order, which allowed Mountaire ten (10) days to file a Reply.

7. Therefore, Mountaire requests that the time to file its Reply be calculated in accordance with the Court's original Scheduling Order (allowing 10 days) and from the

date of complete service on Mountaire of all documents filed in support of Plaintiff's Opposition, which occurred on November 19, 2007.

8. Mountaire respectfully requests an enlargement of time to file its Reply Brief until December 10, 2007, representing ten (10) days from the Plaintiff's complete service all his Opposition and Exhibits, plus three (3) days permitted under to Fed. R. Civ. P. 6(e).

9. Counsel for the Plaintiff does not oppose this Motion.

WHEREFORE, Defendants respectfully request an enlargement of time to file their Reply in Support of their Motion for Summary Judgment until December 10, 2007.

Respectfully submitted,

/S/

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Attorneys for Defendants

November 26, 2007

CERTIFICATE OF SERVICE

This is to certify that Defendants' Unopposed Motion for Enlargement of Time to File Reply in Support of Motion for Summary Judgment was served this 26th day of November, 2007, via electronic filing, on:

Maggie Clausell, Esq.
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Attorney for Plaintiff

/s/

Roger D. Landon

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